

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.39554 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon’ble Court may be pleased to issue a writ, order or direction particularly in the nature of Writ of Mandamus directing the respondents to permit to run my A 4 license shop in the premises bearing No.10-10-264/6 existing on Nagari to Tirupati Road, Nagari Municipality by declaring the 3rd Respondent notice issued in RC.No.197/2017/A1 dated 8-11-2017 for shifting of my shop as illegal and arbitrary and pass such other order or orders as this Hon’ble Court may deem fit and proper.”

(Reproduced verbatim)

2. I have heard the submissions of Sri G. Ramachandra Reddy, learned counsel appearing for the petitioner, and of the learned Government Pleader for Excise appearing for the respondents 1 to 3. I have perused the material record.

3. The case and the grievance of the petitioner, in brief, are as follows: ‘The petitioner is holder of a Form-2B licence for running A4 shop for the sale of Indian Made Foreign Liquor and Foreign Liquor in the premises bearing D.No.10-10-264/6 on Nagari to Tirupati Road, Nagari Municipality, Chittoor District. While so, the petitioner received a notice, dated 08.11.2017, from the 3rd respondent *vide* Proceedings in Rc.No.197/2017/A1, whereby he was requested to shift his business premises within 15 days of receipt of the notice. Aggrieved thereof, the present writ petition is filed.’

4. Learned counsel appearing for the petitioner would submit that the 3rd respondent is not the competent authority for issuing the

notice impugned and if any shifting of the A4 licence shop of the petitioner from the present premises is required, the notice ought to have been issued by the competent authority.

5. However, the learned Government Pleader appearing for the respondents, on written instructions, would submit that the liquor outlet is located near Omshakti temple in Nagari Municipality, and hence, it has to be either closed or relocated and that the shifting of the licensed premises to alternate premises is necessary in public interest. However, he does not dispute the legal position that the competent authority for issuing the notice is the Commissioner, Prohibition and Excise, Chittoor.

6. Recording the submissions, the Writ Petition is allowed and the impugned notice is set aside, however, reserving liberty to the respondents 1 to 3 to issue a fresh notice, if necessary, by following the procedure established by law, if the facts of the case warrant such initiation of action.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 27th November, 2017

Note: Issue C.C. on 29.11.2017.

(B/o.)
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